

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LOREN CHRISTOPHER TARABOCHIA, CV 03-416-JE
Plaintiff, OPINION AND ORDER

v.

CLATSOP COUNTY SHERIFF'S
DEPARTMENT, LT. STEVENS, CPL.
DAVIS, SGT. HICKS, CPL. MOYER,
SGT. HATCHER, DEPUTY MORGAN,
JOSH MARQUIS, and DEPUTY HILLARD,

Defendants.

LOREN TARABOCHIA
SID No. 10072765
777 Stanton Boulevard
Ontario, OR 97914

Plaintiff, *Pro Se*

JAMES P. MARTIN
KARI A. FURNANZ
Hoffman, Hart & Wagner, LLP
Twentieth Floor
1000 S.W. Broadway
Portland, OR 97205
(503) 222-4499

HARDY MYERS

Attorney General

LEONARD W. WILLIAMSON

Senior Assistant Attorney General

Department of Justice

1162 Court Street N.E.

Salem, OR 97301-4096

(503) 373-2147

Attorneys for Defendants

BROWN, Judge.

This matter is before the Court on Plaintiff's Objection (#____) to the Order issued August 15, 2005, in which the Court adopted the Magistrate Judge's Findings and Recommendation.

BACKGROUND

Magistrate Judge John Jelderks issued Findings and Recommendation (#106) on March 22, 2005, in which he recommended the Court deny the County Defendants' Motion for Summary Judgment (#31) as to Plaintiff's claims regarding withholding of mail (claim 2), the prohibition against periodicals (claim 6), and the denial of outdoor exercise (claim 10) and grant the remainder of the County Defendants' Motion for Summary Judgment. The Magistrate Judge also recommended the Court grant Defendant Marquis's Motion for Summary Judgment (#59). Finally, the Magistrate Judge recommended the Court grant Plaintiff's Motion for Summary Judgment (#71) with respect to Plaintiff's claim regarding the prohibition against periodicals (claim 6) and deny

Plaintiff's Motion for Summary Judgment with respect to the remaining claims.

On August 15, 2005, after reviewing pertinent portions of the record *de novo*, the Court adopted the Findings and Recommendation and denied the County Defendants' Motion for Summary Judgment as to Plaintiff's claims regarding withholding of mail (claim 2), the prohibition against periodicals (claim 6), and denial of outdoor exercise (claim 10) and granted the remainder of the County's Motion for Summary Judgment. The Court further granted Defendant Marquis's Motion for Summary Judgment. Finally, the Court granted Plaintiff's Motion for Summary Judgment with respect to Plaintiff's claim regarding the prohibition against periodicals (claim 6) and denied the remainder of Plaintiff's Motion for Summary Judgment.

On August 29, 2005, Plaintiff filed an objection to the Court's Order in which he seeks reconsideration of the Court's Order affirming the Findings and Recommendation and seeks clarification of the issues remaining for trial.

DISCUSSION

I. Motion for Reconsideration

To the extent Plaintiff requests the Court to reconsider its August 15, 2005, Order, the Court grants Plaintiff's Motion. After reviewing the Findings and Recommendation, the objections

of the parties, and the record, the Court adheres to its Order issued August 15, 2005.

II. Motion for Clarification

To the extent Plaintiff seeks clarification of the issues remaining for trial in this matter, the claims remaining for trial are Plaintiff's claims regarding (1) withholding of mail (claim 2 of Plaintiff's Amended Complaint) and (2) the denial of outdoor exercise (claim 10 of Plaintiff's Amended Complaint).

CONCLUSION

For these reasons, the Court rules on Plaintiff's Objection (#____) to the Court's Order issued August 15, 2005, as follows:

1. The Court **GRANTS** Plaintiff's request for reconsideration of that Order. Having reconsidered the matter, however, the Court adheres to its Order of August 15, 2005.
2. The Court **GRANTS** Plaintiff's request for clarification in accordance with this Opinion and Order.

IT IS SO ORDERED.

DATED this 8th day of September, 2005.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge

Tarabochia CV 03-416 O&O.09-07-05.wpd